



## Quarterly Bulletin on Takeovers Matters

**(First Quarter 2018)**

For the benefit of Takeovers Forum members, we have compiled various information and updates relating to takeover matters extracted from the official site of each Forum member. This bulletin will be published quarterly to serve as a centralized information hub on takeover matters.

*(Please click on the title of each item to go to the full write-up at the original source)*

### ***SECURITIES & FUTURES COMMISSION, HONG KONG***

#### **[Takeovers Bulletin – Issue No. 44 - March 2018](#)**

The SFC's Takeovers Bulletin is a newsletter to help participants in Hong Kong's financial markets better understand the Codes on Takeovers and Mergers and Share Buy-backs.

In its March 2018 issue, the following matters were highlighted:

- Nomura Hong Kong publicly criticized for Takeovers Code breaches
- Publication of full property valuation reports
- Public consultation on Code amendments
- Appointments and reappointments to the Takeovers-related Committees
- Quarterly update on the activities of the Takeovers Team

#### **[Takeovers Bulletin - Issue No. 43\(S\) - January 2018](#)**

In its January 2018 issue, the following matter was highlighted:

- Public consultation on proposed Code amendments

#### **[Takeovers Executive of the SFC publicly criticises Nomura International \(Hong Kong\) Limited and related party for breaches of Rules 8 and 10 of the Takeovers Code](#)**

5 March 2018 - The Executive publicly criticises Nomura International (Hong Kong) Limited (Nomura Hong Kong) and Lee Yuen Yee, Annisa (Ms Lee) for failure to comply with certain requirements in the issuance of research reports and profit forecasts on West China Cement Limited (West China) during an offer period in breach of the Code on Takeovers and Mergers (Takeovers Code).

## **SFC proposes amendments to takeover rules**

19 January 2018 - The Securities and Futures Commission (SFC) today launched a three-month consultation on proposed amendments (Note 1) to the Codes on Takeovers and Mergers and Share Buy-backs (Codes). Key proposals enhance investor protection by increasing the voting approval threshold for whitewash waivers (Note 2) to 75% of independent shareholders and empowering the Takeovers Panel to require compensation to be paid to shareholders who have suffered as a result of a breach of the Codes. Other proposed amendments clarify the obligations of persons dealing with the Takeovers Executive, the Takeovers Panel and the Takeovers Appeal Committee in all Codes transactions, requiring their prompt cooperation and assistance and the provision of true, accurate and complete information.

## ***TAKEOVERS PANEL OF AUSTRALIA***

### **Appointment of Panel Members**

29 March 2018 - The Takeovers Panel notes the announcement by the Minister for Revenue and Financial Services of the reappointment of 12 members and the appointment of 3 new members to the Panel, for terms of 3 years commencing on 30 April 2018. The President and Panel executive warmly welcome the new members and thank those members whose terms have ended. On 30 April 2018, the Panel will have 43 members all of whom are appointed on a part-time basis.

### **Strategic Minerals Corporation NL - Variation to the Declaration of Unacceptable Circumstances**

29 March 2018 - The review Panel, Peter Day (sitting President), James Dickson and Bruce McLennan, made a minor variation to the declaration of unacceptable circumstances made on 1 February 2018 in relation to the affairs of Strategic Minerals Corporation NL. The review Panel otherwise agreed with the initial Panel's conclusions, for substantively the same reasons, and affirmed the orders made by the initial Panel.

### **Panel Publishes Consultation Paper Revisions to Guidance Note 1 on Unacceptable Circumstances - Last and Final Statements**

14 March 2018 - The Panel today released a Consultation Paper seeking public comment in relation to proposed revisions to Guidance Note 1 on Unacceptable Circumstances. The proposed revisions give an example of unacceptable circumstances following a last and final statement in relation to a takeover bid (see example 4 of paragraph 32(a) and footnote 39 of Guidance Note 1). The example seeks to provide market participants more certainty by establishing a time frame before which departure from a no increase statement may give rise to unacceptable circumstances. The Panel seeks comments from interested persons on the draft Guidance Note by 20 April 2018.

### **AWE Limited - Panel Declines to Conduct Proceedings**

26 February 2018 - The Panel, Elizabeth Hallett, Rod Halstead and Ron Malek (sitting President), declined to conduct proceedings on an application by AWE Limited in relation to its affairs. The application concerned bidder's statement disclosure in relation to an off-market takeover bid by CERCG Aus Gas Pty Ltd for AWE. The Panel considered that there was no reasonable prospect that it would declare the circumstances unacceptable after CERCG provided corrective disclosure in a form and manner acceptable to the Panel.

### **Panel Publishes Consultation Paper - Revised Guidance Note 17 on Rights Issues**

23 February 2018 - The Panel today released a Consultation Paper seeking public comment in relation to proposed revisions to Guidance Note 17 on Rights issues. The proposed revisions seek to provide clearer guidance about the Panel's approach to rights issues. The Panel seeks comments from interested persons on the draft Guidance Note by 6 April 2018.

### **Bulletproof Group Limited - Panel Declines to Make Declaration**

22 February 2018 - The Panel, Shirley In't Veld, Jeremy Leibler and Karen Phin (sitting President), declined to make a declaration of unacceptable circumstances in relation to the affairs of Bulletproof Group Limited. The application concerned Bulletproof Group Limited's disclosure in its target's statement (and accompanying independent expert report) in relation to Macquarie Cloud Services Pty Ltd's bid for Bulletproof Group Limited. The Panel was not satisfied that the circumstances were unacceptable.

### **Strategic Minerals Corporation NL - Declaration of Unacceptable Circumstances**

21 February 2018 - The Panel, Alex Cartel (sitting President), Bruce Cowley and Neil Pathak, made a declaration of unacceptable circumstances in relation to the affairs of Strategic Minerals Corporation NL. The application concerned QGold Pty Ltd's bid for Strategic Minerals. The Panel considered that a number of factors relating to the bid gave rise to unacceptable circumstances. These included the circumstances connected with a recent placement, the placee's additional on-market purchase of Strategic Minerals shares and the sale of the placee's shares. The Panel also considered that these factors were compounded by deficiencies in QGold's bidder's statement and deficiencies in Strategic Minerals' target statement, including in relation to the commissioning and engagement of experts by Strategic Minerals and deficiencies in the technical expert's report. The Panel made a declaration of unacceptable circumstances and orders including disclosure, the commissioning of revised experts' reports and (in effect) withdrawal rights. The Panel also awarded costs.

### **Quantum Graphite Limited - Panel Declines to Make Declaration**

16 February 2018 - The Panel, Yasmin Allen, Robert McKenzie and Sophie Mitchell (sitting President), declined to make a declaration of unacceptable circumstances in relation to the affairs of Quantum Graphite Limited (subject to Deed of Company Arrangement). The application concerned a placement of shares in Quantum and resolutions passed at Quantum's annual general meeting to approve the issue of

shares and unlisted options, in accordance with a deed of company arrangement, for the purposes of ASX Listing Rule 7.1. The Panel was not satisfied that the circumstances were unacceptable.

### **Panel Updates Index of its Decisions**

1 February 2018 - The Panel has released an update of the index of its decisions. The updated index includes decisions up to and including 31 December 2017, as well as some corrections and further cross-references. It also includes hyperlinks to the reasons. The index can be found at the "Index of Reasons" tab on the Panel's website. The index will be updated annually.

## ***NEW ZEALAND TAKEOVERS PANEL***

### **Code Word 46 (March 2018)**

29 March 2018 – The Takeovers Panel issues the Code Word 46 which highlights the following matters:

- Update to Guidance Notes
- Class Exemption from Rule 46(1)
- Appointment of General Counsel

### **Takeovers Panel welcomes new General Counsel**

22 March 2018 - The Takeovers Panel announced the appointment of Mark Cunliffe as General Counsel to the Panel.

### **Guidance Note on Independent Advisers and the Takeovers Code**

5 March 2018 - The Takeovers Panel issues the Guidance Note on Independent Advisers and the Takeovers Code to assist those who are approved as independent advisers by the Panel to prepare a report under any of rules 18, 21, 22, or 57 of the Takeovers Code or under a class exemption or individual exemption granted by the Panel from the Code.

### **Guidance Note on Target Company Statements**

2 March 2018 - The Takeovers Panel issues the Guidance Note on Target Company Statements to assist market participants to understand the Panel's approach to the Code's requirements for target company statements.

## ***MONETARY AUTHORITY OF SINGAPORE***

### **Take-overs Bulletin Issue No.4 (January 2018)**

4 January 2018 – Monetary Authority of Singapore issues the Take-overs Bulletin Issue No. 4 which highlights the following matters:

- Happy New Year
- Partial offers for more than 50%
- Retirement from, appointments and reappointments to the SIC; and
- H2 2017 Statistics on M&A activity